

इसाधारण

EXTRAORDINARY

भाग II——खण्ड 2
PART II——Section 2
प्राधिकार से प्रकासित

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इस भाग में भिष्म पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सहे।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 2nd April, 1971:—

BILL No. 4 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution (Amendment) Act, 1971. Short title.
- 2. In article 120 of the Constitution, clause (2) shall be omitted.

Amendment of article 120.

3. In article 210 of the Constitution, clause (2) shall be omitted.

Amendment of article 210. Amendment of article 343.

- 4. In article 343 of the Constitution,—
- (a) for clause (2), the following clause shall be substituted, namely:—
 - "(2) Notwithstanding anything in this Part, or in any other provision of this Constitution, the English language shall also be the official language of the Union and shall continue to be used for all the official purposes of the Union:

Provided that the English language shall cease to be the official language of the Union under this clause if every Legislative Assembly of every non-Hindi speaking State passes a resolution by a majority of not less than three-fourths of the total membership of that Assembly declaring that the English language shall cease to be the official language of the Union."

- (b) for clause (3), the following clause shall be substituted, namely:—
 - "(3) Whenever Hindi is used for any of the official purposes of the Union, a translation of the same in English shall be made available."

Amendment of article 344.

- 5. In article 344 of the Constitution,—
- (a) in clause (6), for the words "Notwithstanding anything in", the words "Subject to the provisions of" shall be substituted;
 - (b) to clause (6), the following proviso shall be added, namely:—

"Provided that no direction under this clause shall be issued imposing restrictions on the use of the English language for all or any of the official purposes of the Union, unless every Legislative Assembly of every non-Hindi speaking State passes a resolution agreeing to such restrictions, by a majority of not less than three-fourths of the total membership of that Assembly.".

Substitution of article 346. 6. For article 346 of the Constitution, the following article shall be substituted, namely:—

Language for communication between one State and another or between a State and the Union.

- "346. (1) The language for communication between one Hin speaking State and another Hindi speaking State shall be the Hin or the English language.
- (2) The language for communication between a Hindi speaking State and a non-Hindi speaking State, between one non-Hindi speaking State and another non-Hindi speaking State, between a non-Hin speaking State and the Union, and a Hindi speaking State and t Union shall be the English language.

Explanation I.—In this article, "Hindi speaking State" means a Stathe official language of which is Hindi.

Explanation II.—In this article, and in the proviso to clause (of article 343, in the proviso to clause (6) of article 344 and in the second proviso to article 368, "non-Hindi speaking State" means any State in being a State referred to in Explanation I."

7. In article 348 of the Constitution, to clause (1), the following proviso shall be added, namely:-

Amendment of article 348.

"Provided that no Bill or amendment for the purpose shall be introduced or moved in either House of Parliament unless every Legislative Assembly of every non-Hindi speaking State passes a resolution agreeing to such Bill or amendment, by a majority of not less than three-fourths of the total membership of that Assembly.".

8. After the proviso to article 368 of the Constitution, the following Amendproviso shall be added, namely:-

ment of article 368

"Provided further that if such amendment seeks to make any change in article 343, proviso to clause (6) of article 344, article 346 or article 348, no Bill or amendment for the purpose shall be introduced or moved in either House of Parliament unless every Legislative Assembly of every non-Hindi speaking State passes a resolution agreeing to such Bill or amendment, by a majority of not less than three-fourths of the total membership of that Assembly.".

Under article 343(1) of the Constitution, Hindi is declared to be the official language of the Union. Article 343(2) of the Constitution provides that English shall continue to be used till 1965 for all the official purposes of the Union for which it was being used immediately before 26-1-1950.

- 2. There has been persistent and repeated agitation in the non-Hindi speaking areas against the recognition of Hindi which is only a regional language as the official language of the Union, for that would place the people in non-Hindi speaking areas at a definite disadvantage. This agitation seeks to delete Hindi as the official language in the Constitution. So as to make a compromise between the two extreme stands, the late Prime Minister, Pandit Jawaharlal Nehru, gave an assurance that English would continue to be used as the official language of the Union and for inter-State purposes without any time limit except when the people in the non-Hindi speaking areas agree to the discontinuance of English. With a view to give effect to this assurance, the Official Languages Act was passed in 1963 and was later amended in 1968. But in practice neither the 1963 Act nor the amending Act of 1968 have allayed the fears of the non-Hindi speaking people, since it is only an Act of Parliament which can always be repealed or amended by a simple majority. It has been possible to circumvent the provisions. Those Acts have left many things to be decided and have fallen short of the expectations of the people in the South and other non-Hindi speaking areas.
- 3. With a view to alter the Constitutional status of Hindi, as a step in that direction, it is proposed to embody the provisions of the Official Languages Act, 1963 and the assurance of Shri Nehru as part of the Constitution itself so that it cannot be altered at the will of a simple majority. In order to meet the just and reasonable demand of the non-Hindi speaking people, the Bill seeks to amend the Constitution so as to provide that the English language shall also be the Official Language of the Union and shall be used for all the official purposes of the Union. The Bill also seeks to provide necessary safeguards before the amendment of the Constitution affecting the position of English language as official language of the Union is introduced in either House of Parliament.

New Delhi; The 18th March, 1971. MURASOLI MARAN.

BILL No. 3 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Constitution (Amendment) Act, 1971.

Short title and cement.

- (2) It shall come into force on such date as the Central Government commenmay, by notification in the Official Gazette, appoint.
 - 2. In article 81 of the Constitution, in clause (3),-

(a) for the words "last preceding census", the words and figures ment of "census held in 1951" shall be substituted:

Amendarticle 81.

(b) the following proviso shall be added at the end, namely: -

"Provided that in ascertaining the population as aforesaid, the subsequent alteration, if any, in the area of a State, shall be taken into account."

Amendment of article 82. 3. In article 82 of the Constitution, the words "the allocation of seats in the House of the People to the States and" shall be omitted.

Insertion of new article 281A.

4. After article 281 of the Constitution, the following article shall be inserted, namely:—

Distribution of revenues and payment of grants to States.

"281A. Notwithstanding anything in this Constitution, the distribution of revenue or payment of any grant to any State by the Union on the basis of population in such State shall be made only on the basis of such population in such State as ascertained at the census held in 1951:

Provided that in ascertaining the population as aforesaid, the subsequent alteration, if any, in the area of a State shall be taken into account."

Under the existing provisions of the Constitution [Article 81(2)(a), 81(3), and 82], the number of seats to be allotted to each State in the House of the People is determined on the basis of population as ascertained at the last preceding census. The result is that if the population decreases in one State but increases in another State, the number of seats in the House of the People allotted to the former State will be reduced while the number of seats allotted to the latter State will be increased. In respect of the State of Tamil Nadu, the reason for the decrease in population in 1961, resulting in the reduction of the number of seats in the House of the People by two, has been examined. It is seen that the main reason for the decrease in population in the State was the effective implementation of the Family Planning Programme by this State. It is obvious that if population as ascertained at the last preceding census is taken as the sole basis for the determination of the number of seats for a State in the House of the People, then, the State which effectively enforces the Family Planning Programme will suffer by reduction in the existing number of seats allotted to it in the House of the People while another State which lags behind in the Family Planning Programme may not lose any seat.

It is, therefore, considered necessary that the number of seats to be allotted to the State of Tamil Nadu in the House of the People should be based only on the population as ascertained in the 1951 census taking into account the reorganisation of States.

Similarly, the distribution of revenues and the payment of grant by the Union should be based only on the basis of population as ascertained in the census held in 1951 and not on any other census held subsequent to 1951.

The Bill seeks to gives effect to the above objects.

MURASOLI MARAN

NEW DELHI; The 18th March, 1971.

Bill No. 2 of 1971

A Bill further to amedn the Constitution of India

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

Short title. This Act may be called the Constitution (Amendment) Act, 1971.

Amendment of article 120.

- 2. In article 120 of the Constitution,—
- (a) in clause (1), for the words "in Hindi or in English", wherever they occur, the words "in Tamil, Hindi or in English" shall be substituted; and
 - (b) clause (2) shall be omitted.

Amendment of article 210.

- 3. In article 210 of the Constitution,-
- (a) in clause (1), for the words "in Hindi or in English", the words "in Tamil, Hindi or in English" shall be substituted;
 - (b) clause (2) shall be omitted.

Amendment of Part XVII.

- 4. In Part XVII of the Constitution,—
- (a) for the heading "OFFICIAL LANGUAGE", the heading "OFFICIAL LANGUAGES" shall be substituted; and

- (b) in Chapter I, for the heading "Language of the Union" the heading "Languages of the Union" shall be substituted.
- 5. In article 343 of the Constitution,—

Amendment of

- article (a) for the marginal heading "Official language of the Union", the marginal heading "Official languages of the Union" shall be substituted;
 - (b) in clause (1),—
 - (i) for the word "language", the word "languages" shall be substituted.
 - (ii) and after the words "Devanagari script", the words "and Tamil in Tamil script" shall be inserted;
 - (c) in clause (3),—
 - (i) in sub-clause (a), the word "or" shall be omitted; and
 - (ii) sub-clause (b) shall be omitted;
- (d) after clause (3), the following clause shall be added, namely:—
 - "(4) Whenever Tamil, Hindi or English is used for any of the official purposes, a translation of the same in English, Hindi, or Tamil, as the case may be, shall be made available.".
- 6. For article 344 of the Constitution, the following article shall be Substitusubstituted, namely:-

tion of article 344.

"344. (1) The President shall, as soon as may be, by order constitute a permanent Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order ment on shall define the procedure to be followed by the Commission.

Commislanguages.

- (2) The Chairman and members shall hold office for three years from the date of appointment and the President shall from time to time fill up the vacancies by fresh appointment.
- (3) It shall he the duty of the Commission to make recommendations to the President from time to time as to-
 - (a) whether, in addition to Hindi and Tamil, any of the other languages, mentioned in the Eighth Schedule may be declared as official language of the Union;
 - (b) the progressive use of the official languages mentioned in clause (1) of article 343;
 - (c) the languages to be used for all or any of the purposes mentioned in article 348:
 - (d) any other matter referred to the Commission by the President as regards the official languages of the Union and the languages for communication between the Union and a State or between one State and another and their use.

- (4) In making their recommendations under clause (3), the Commission shall have due regard to—
 - (a) the development, vocabulary and the suitability of the language to be declared as an official language and the interests of the persons speaking the language; and
 - (b) the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi or non-Tamil speaking areas in regard to the public services.
- (5) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.
- (6) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.
- (7) Subject to the provisions of article 343 and clause (8) of this article, the President may, after consideration of the report referred to in clause (6), issue directions in accordance with the whole or any part of that report.
- (8) If the report referred to in clause (6) recommends the declaration of any of the languages mentioned in the Eighth Schedule, in addition to Tamil, as the official language of the Union, Parliament shall, by law, declare the language so recommended as the official language of the Union and clause (1) of article 343 shall have effect as if the said language is also included in that clause. Such law may contain such supplemental, incidental and consequential provisions as may be necessary."

Amendment of article 345. 7. In article 345 of the Constitution, after the words "or Hindi", the words "or Tamil" shall be inserted.

Amendment of article 346.

8. In article 346 of the Constitution, in the proviso, after the word "Hindi", the words "or Tamil" shall be inserted.

Amendment of article 348. 9. In article 348 of the Constitution, in clause (2), after the word "Hindi", the words "or Tamil" shall be inserted.

Amendment of article 349.

- 10. Article 349 of the Constitution shall be re-numbered as clause (1) thereof, and after clause (1) as so re-numbered, the following clause shall be inserted, namely:—
 - "(2) Nothing in clause (1) shall be deemed to affect the continuance of Tamil as the official language of the Union."

Omission of article 351.

11. Article 351 of the Constitution shall be omitted.

At the time of the passing of the Constitution of India when Hindi was made the sole official language of the Union, the interests of non-Hindi speaking areas and the practical difficulties in enforcing Hindi as the sole official language of the Union were completely overlooked. Hindi is, at best, only a regional language and it is not entitled to any preferential treatment over other languages. Hindi is of very recent origin, not developed and its vocabulary, literature and syntax are not adequate to meet all requirements in respect of expression, communication and development. Public opinion and agitations have shown strong disapproval of Hindi being the sole official language.

- 2. The Indian languages can be classified broadly under two heads. namely, (1) the Aryan languages, and (2) the Dravidian languages. It is also felt that Hindi cannot be the link language for the two groups. In order to accord equal status to the Dravidian group of languages and Aryan group of languages, it is considered necessary that one of the languages belonging to the Dravidian group of languages should immediately be declared as the official language of the Union. For this purpose, Tamil which is the oldest of the Dravidian languages and which is one of the official languages in some of the South East Asian countries may be included in clause (1) of article 343 as official language of the Union, thereby restoring the status of Tamil in the country of its birth. Since it is not possible by one stroke to include all the other languages mentioned in the Eighth Schedule as official languages of the Union for purposes of article 343 without ascertaining the views of the people speaking the said languages, it is proposed to constitute a Commission and Committee to examine the necessity to recognise such languages also as official languages of the Union.
- 3. If the Committee recommends that any of the languages mentioned in the Eighth Schedule may, in addition to Tamil, be declared as the official language of the Union, it will be incumbent on Parliament to enact a law declaring the language so recommended as the official language of the Union. The present Bill is intended to prevent national disintegration on account of language controversy and gives equal status to all the languages in the Eighth Schedule.
- 4. The special provisions contained in article 351 enjoining on the Union Government a duty to develop the Hindi language as a medium of expression results in undue preference to one regional language. Accordingly, the Bill seeks to omit this provision.

NEW DELHI;

MURASOLI MARAN.

The 18th March, 1971.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for constitution of a permanent Commission on official languages as also for appointment of the Committee of Parliament to examine the recommendations of the Commission. Constitution of permanent Commission would involve a non-recurring expenditure of about Rs. 2 lakhs from the Consolidated Fund of India. A recurring expenditure of about Rs. 3 lakhs would also be involved from the Consolidated Fund of India on the Commission and the Committee.

BILL No. 11 of 1971

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:

1. This Act may be called the Constitution (Amendment) Act, 1971. Short

title.

2. In the Constitution,—

Amendment of

(a) in article 368, for the marginal heading, the following wing article merginal heading shall be substituted, namely:-368.

"Power to amend the Constitution";

- (b) the said article shall be renumbered as clause (2) thereof, and before clause (2) as so renumbered, the following clause shall be inserted, namely:-
 - "(1) Parliament may by law amend any provision of this Constitution in accordance with the procedure laid down in this article.";
- (c) in clause (2) as so renumbered, in the proviso, in clause (b), before the words and figures "Chapter IV of Part V", the following shall be inserted, namely:-

"Part III,"; and

- (d) after clause (2) as so renumbered, the following clause shall be inserted, namely :---
 - "(3) Nothing contained in article 13 shall apply to any law made in pursuance of this article".

After the judgment of the Supreme Court in I. C. Golak Nath's case, a great controversy has arisen about the competence of Parliament to amend Part III of the Constitution so as to take away or abridge the Fundamental Rights. In order to remove any doubt about the competence of Parliament to amend any part of the Constitution, our late friend Shri Nath Pai had introduced a Bill in the last Lok Sabha. A Joint Committee of the two Houses had gone into the matter and submitted their report suggesting certain amendments in the Bill which lapsed on dissolution of the Fourth Lok Sabha.

In the present context of the mood of the society it is necessary that the Bill, as was reported by the Joint Committee, should be revived and article 368 amended so that our sovereign Parliament may be able to promote without any let or hindrance the welfare of the people by securing and protecting a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

Hence this Bill.

NEW DELHI; The 18th March, 1971.

CHINTAMANI PANIGRAHI

BILL No. 8 of 1971

A Bill further to amend the Companies Act, 1956

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1971.

Act, Short title and commence-

(2) It shall be deemed to have come into force on the 1st day of April, ment. 1971.

1 of 1956.

2. After section 224 of the Companies Act, 1956, the following new Insertion sections shall be inserted, namely:— of new

Insertion of new sections 224A, 224B and 224C.

"224A. After the commencement of the Companies (Amendment) Act, 1971, no person shall, save as otherwise provided in section 224B, hold office at the same time as auditor in more than five companies, of which not more than two, if any, shall be public limited companies:

No person to be an auditor of more than five companies.

Provided that where a person holds office as auditor in a company which has other auditor or auditors at the same time, for purposes of calculating the number of companies of which a person may be an auditor as aforesaid, as regards each auditor, the office of auditor in two such companies shall be counted as one:

Provided further that for the purposes of calculating the number of companies of which a person may be an auditor as aforesaid, the following companies shall be excluded, namely:—

- (a) an unlimited company;
- (b) an association not carrying on business for profit or which prohibits the payment of a dividend;
- (c) a company in which such person is only the branch auditor under section 228:
- (d) a company in which such a person is only a special auditor appointed under section 233A; and
- (e) a company in which such a person is appointed only an auditor under section 233B.
- 224B. Any person holding office as auditor in more than five companies immediately before the commencement of the companies (Amendment) Act, 1971 shall from the date of such commencement,—
 - (a) choose not more than five of those companies, as companies in which he wishes to continue to hold the office of auditor;
 - (b) intimate the choice made by him under clause (a) to each of the companies in which he was holding the office of auditor before such commencement, to the Registrar having jurisdiction in respect of each such company, and also to the Central Government; and
 - (c) shall not be re-appointed as auditor in the other companies at the conclusion of the annual general meeting, held after the commencement of the Companies (Amendment) Act, 1971, at which his term of appointment expires.
- 224C. (1) Where a person already holding the office of auditor in five companies is appointed, after the commencement of this Act, as an auditor of any other Company, the appointment—
 - (a) shall not take effect unless such person has, within fifteen days thereof, effectively vacated his office as auditor in any of the companies in which he was already an auditor; and
 - (b) shall become void immediately on the expiry of the fifteen days if he has not, before such expiry, effectively vacated his office as auditor in any of the other companies aforesaid.
- (2) Where a person already holding the office of auditor in four companies or less is appointed, after the commencement of the Companies (Amendment) Act, 1971, as an auditor of other companies, making the total number of his auditorships to be more than five, shall choose the auditorships which he wishes to continue to hold or to accept, so however that the total number of auditorships, old and new, held by him shall not exceed five.
- (3) None of the new appointments of such auditor shall take effect until such choice is made, and all the new appointments shall become void if the choice is not made within fifteen days of the day on which the last of them was made.".

Choice to be made by auditor of more than five companies at commencement of the Companies (Amendment) Act, 1971.

Choice by person becoming auditor of more than flve companies after commencement of the companies (Amendment) Act, 1971.

The object of the Bill is to amend the Companies Act 1958, so as to make the existing provisions relating to audit effective and rational, and remove the causes that lead to the most pernicious monopoly in auditorship and abuse of the objects of law.

The Notes on Clauses explain the various provisions contained in the Bill.

NEW DELHI; The 18th March, 1971.

CHINTAMANI PANIGRAHI.

NOTES ON CLAUSES

Clause 1. The new provisions are sought to be made effective from 1st April, 1971. As a large number of companies close their accounts on the 31st March, and those having closed their accounts on 31st December will now be holding their annual general meeting, the 1st April, 1971 shall be the proper time for the new provisions to come into force.

Clause 2. Under the present law, even one single person—a Chartered Accountant can hold the office of auditor in all the existing 27,701 companies, both in public and private sectors. This has enabled a few to control most of the auditorships. The office of auditor in Government companies and Statutory Corporations too has hitherto gone to these few monopolists. As a result, the audit which is the expert personal work of the Chartered Accountant so appointed becomes humanly impossible for him to do. He delegates his work to others whom the Company has not appointed and could not have lawfully appointed. It defeats the purposes of audit. Sometimes the work done by the Companies' qualified accounts officers and internal auditors who are Chartered Accountants is checked by those who are non-qualified. The Chartered Accountant appointed to hold the office of auditor merely signs. Such is the condition in most of the Companies and most of the Companies are under the monopoly auditor.

If a person holds the office of auditor in not more than five Companies at the same time he will be placed in a better position so as to render the services expected of him on account of his personal professional expertise.

As the Chartered Accountants in practice are 6134 in numbr, it will obviously be in the interest of the Companies, the economy of the country and the profession of Chartered Accountants that available members of the profession be called upon to share the work at least in this small area of Corporate audit.

The Bill, therefore, proposes to insert new sections 224A, 224B and 224C. New section 224A introduces some principle as to the number of offices of auditor that a person can hold at the same time in the companies in public and private sectors.

It will still be open to the companies and the monopolist Chartered Accountant to continue to benefit mutually if the latter is appointed as director or financial adviser or in any other office.

Moreover, the proposed Bill does not cover the other auditorships, and hence they continue to be under the control of the persons as usual.

Audit of Statutory Corporations governed by separate acts, partnerships and other institutions are also not covered in the proposed Bill.

New section 224B provides for the choice to be made by the person holding the office of auditor in more than five companies, which will operate with the expiry of the term of auditor in the excess number of companies, and hence the operation of the new provision will be convenient and smooth.

New section 224C provides for the choice to be made by the person becoming auditor of more than five companies after the Companies (Amendment) Act, 1971.

1971.

BILL No. 13 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act,

Short title and commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. After article 16 of the Constitution, the following new article shall be inserted, namely:—

Insertion of new erticle 16A.

"16A. (1) All adult citizens shall have the right to work and shall be entitled to adequate means of livelihood.

Right to Employment.

(2) Failing to procure such livelihood as referred to in clause (1), every citizen shall be entitled to an unemployment allowance to be paid by the State."

Article 39 of the Constitution says interalia: "The State shall in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;". Again article 41 provides that the State shall make effective provision for securing the right to work and to public assistance in cases of unemployment. Being the Directive Principles, these articles have not achieved the desired purpose. The number of unemployed persons is fast increasing. In a welfare State, it is the duty of the State to provide employment to every able-bodied and willing-to-work citizen or in the alternative to give suitable subsistence allowance to all unemployed persons.

The Bill seeks to achieve this purpose.

DR. KARNI SINGH

New Delhi; The 19th March, 1971

FINANCIAL MEMORANDUM

The Bill provides for the payment of unemployment allowance. The number of the unemployed persons in the country at present is about 6 million. It is estimated that at the rate of Rs. 100 per month per head the annual recurring expenditure of Rs. 7200 crores will be involved. The share of the Union will be about Rs. 80 crores, the rest being borne by the respective State Governments. The Bill will not involve any non-recurring expenditure.

BILL No. 12 or 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1) This Act may be called the Constitution (Amendment) Act, 1971.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new articles 28A and 23B,

2. After article 23 of the Constitution, the following new articles shall be inserted, namely:—

Right to education.

- "23A. (1) All children of the age of fourteen years or less shall have the right to free education.
- (2) Education shall be compulsory for all children till they have completed the age of fourteen years.

Right to monetary assistance in cases of old age, sickness and disablement. 23B. The State shall provide monetary assistance to every citizen who has completed the age of sixty years or remains chronically ill, or is permanently incapacitated or disabled and has nothing to fall back upon and is unable to fend for himself.".

Article 41 of the Constitution says, inter alia, that the State shall make effective provision for securing the right to education and public assistance in cases of old age, sickness and disablement. Similarly article 45 of the Constitution casts a duty on the State to provide for free and compulsory education for all children upto the age of 14 years. The Directive Principles of State policy which embody these rights are not empty platitudes, but they enshrine a charter of hopes and aspirations which if not redeemed before long will subject the Constitution itself to a process of attrition. The State has done practically nothing in this regard so far and it cannot in fairness and good conscience, by its neglect, inaction or omission allow the dilution of the Directive Principles which it has been directed to preserve. The Bill seeks to give legal effect to what is contained in articles 41 and 45. Unless these rights are made justiceable they will remain nugatory.

Hence this Bill.

New Delhi; The 19th March, 1971. KARNI SINGH

FINANCIAL MEMORANDUM

This Bill seeks to make provision for free and compulsory education for the children upto the age of fourteen years and for the monetary assistance to the old, sick and disabled persons by the State. This will involve a recurring expenditure of about rupees ten crores from the Consolidated Fund of India. This will not involve any non-recurring expenditure.

BILL No. 14 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution (Amendment) Act. 1971. Short title.
- 2. In article 335 of the Constitution,-
- (i) the words "consistently with the maintenance of efficiency Amendof administration" shall be omitted; and ment of article
- (ii) after the word "appointments" the words "and promotions" ³³⁵. shall be inserted.

The Constitution makers added the expression "consistently with the maintenance of efficiency of administration", proposed to be deleted through this Bill, in good faith and with the expectation that the executive authorities would be guided more by constitutional morality than by other considerations. But the experience of the last 22 years has belied this trust and hope. On the plea of maintenance of efficiency of administration the special constitutional provision for adequate representation for Scheduled Castes and Scheduled Tribes has been reduced to a farce.

Moreover, this expression is not to be found elsewhere in the Constitution, even in provisions dealing with "services". Further, this is also against the spirit of article 320(4) of the Constitution. Secondly there is no specific provisions for reservation in promotions also. This is an anomaly which must be removed.

Hence this Bill.

New Delhi;

8. M. SIDDAYYA.

The 19th March, 1971

BILL No. 15 OF 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows: --

1. This Act may be called the Constitution (Amendment) Act, 1971.

Short title.

2. In article 338 of the Constitution, in clause (2), after the words "all such reports", the words "together with memoranda explaining the action ment of taken thereon" shall be inserted.

Amendarticle 338.

Several recommendations made by the Special Officer for Scheduled Castes and Scheduled Tribes remain unimplemented by the State Governments and the Central Government. If some of them cannot be implemented, the reasons for non-implementation should be made known to Parliament.

Moreover, there was a convention that the statement of action taken on the recommendations made in his previous Report should be laid on the Table of each House before the discussion on any Report was taken up. For some years, that convention has also been given a go by. No useful purpose will be served by discussing the Report without knowing the action taken thereon. Therefore, it is very necessary and desirable that the memoranda explaining the action taken on all the recommendations made in the Reports should be laid before each House of Parliament along with the Reports.

Hence this Bill.

S. M. SIDDAYYA.

New Delhi; The 19th March, 1971.

BILL No. 16 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1971.

2. After article 330 of the Constitution, the following article shall be inserted, namely:—

"330A. (1) Seats shall be reserved in the Council of States for-

- (a) the Scheduled Castes;
- (b) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and
- (c) the Scheduled Tribes in the autonomous districts of Assam.

Short title.

Insertion of new article 330A.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the Council of States, (2) The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the Council of States as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.".

Amendment of article 332.

3. In article 332 of the Constitution—

- (i) in clause (1), after the word "State", the words "and the Union territory, wherever it exists." shall be inserted;
- (ii) in clause (3) after the word "State" wherever it occurs the words "or Union territory" shall be inserted.

Insertion of new article 332A.

4. After article 332 of the Constitution, the following article shall be inserted, namely:—

reservation of
seats for
Scheduled
Castes
and Scheduled
Tribes in
the Legislative
Councils
of the
States.

- "332A. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Council of every State, wherever it exists.
- (2) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Council of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Council as the population of the Scheduled Castes or of the Scheduled Tribes in the State, in respect of which seats are so reserved, bears to the total population of the State.".

Amendment of article 334,

- 5. In article 334 of the Constitution,-
 - (i) in part (a), after the word "States" the words "or Union territories" shall be inserted;
- (ii) in the proviso, after the word "State" the words "or Union territory" shall be inserted.

Articles 330 and 332 of the Constitution provide for reservation of seats for the Scheduled Castes and the Scheduled Tribes in Lok Sabha and the Legislative Assemblies of the States in proportion to their population. There is no such provision for reservation in Rajya Sabha and the Legislative Councils of various States. But it was hoped that they would be able to secure adequate representation in the Upper Houses gradually. That hope has not been realised even after twenty years and they still remain politically the weakest section. Besides, it is an anomaly to have reservation in one wing of the Legislature and not to have it in the other.

Secondly, the reservation provided for the Scheduled Castes and the Scheduled Tribes under article 332 is limited to the Legislative Assembly of every State and it does not extend to the Legislative Assemblies of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondicherry. This is another anomaly. This Bill seeks to remove these anomalies by providing for reservation in Rajya Sabha and the various Legislative Councils and also in the Legislative Assemblies of the Union territories.

S. M. SIDDAYYA

NEW DELHI; The 19th March, 1971.

BILL No. 20 or 1971

A Bill to provide for the licensing of certain flying and to repeal relevant sections of the Air Corporations Act, 1953.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Civil Aviation (Licensing) Act, 1971.
- (2) It extends to the whole of India including the State of Jammu and Kashmir.

Short title, extent and commencement.

- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions in this Act.
 - 2. In this Act, unless the context otherwise requires,-

Definitions.

- (a) "aerodrome licence" means a licence granted in respect of an aerodrome;
- (b) "Air Operator's Certificate" has the meaning assigned by paragraph (a) of sub-section (2) of section 3;
- (c) "Air Transport Service" means the carriage of passengers or of mails or other cargo by air for reward;

- (d) "the Board" means the Air Transport Licensing Board established in pursuance of sub-section (1) of section 3 of this Act;
 - (e) "the Central Government" means the Government of India;
- (f) "flight" means a journey by air beginning when aircraft takes off and ending when the aircraft next alights thereafter;
- (g) "the Minister" means the Minister of Tourism and Civil Aviation;
- (h) "operator", in relation to an aircraft, means a person for the time being having the business management of that aircraft, and cognate expressions shall be construed accordingly;
- (i) "prescribed" means prescribed by the Central Government by regulations under this Act;
- (j) "reward", in relation to any aircraft, includes any form of consideration received or to be received wholly or partly in respect of that flight, irrespective of the persons by or to whom the consideration has been or is to be given;
- (k) "tariff" in relation to any air transport service means the fares or freight rates (including any charges for the carriarge of mails) to be charged and any conditions upon which those fares or freight rates depend.
- 3. (1) There shall be established in accordance with the provisions of the Scheduled an Air Transport Licensing Board (in this Act referred to as the Board).
- (2) No aircraft shall be used on any flight for reward or in connection with any trade or business—
 - (a) unless the operator of the aircraft is the holder of an 'Air Operator's Certificate' being a certificate of his competence to secure that aircraft operated by him on flights are operated safely; or
 - (b) subject to the provisions of sub-section (3) and otherwise than in accordance with the terms of an 'Air Service Licence' granted to the operator of the aircraft by the Board under section (4) being a licence authorising the holder thereof to operate aircraft on flights:

Provided that the provisions of this sub-section shall not apply to any flight made—

- (a) solely for the purpose of carrying passengers on a might beginning and ending at the same place; and
- (b) solely for one or more of the following purposes, that is to say-
 - (i) the provisions of ambulance or rescue facilities by air;
 - (ii) the carriage of not more than seven persons (including the crew of the aircraft) together with the baggage, if any, in a case where the aircraft is not equipped to carrying more than that number of persons;
 - (iii) the carriage of any one or more of the following, that is to say the operator of the aircraft, any bona fide servant of his

Establishment of licensing authority and restriction of unlicensed flying. and any baggage or other property of the operator or any such servant;

- (iv) the training or testing of persons in the performance of duties in the aircraft;
- (v) the testing or demonstrating of the aircraft or of any apparatus, whether or not that apparatus is carried in the aircraft;
- (vi) the dropping or projecting of material in the interests of agriculture, horticulture, forestry or public health;
 - (vii) the taking of photographs from the air; or
- (c) solely for the purpose of carrying cargo consigned by one person in the exercise of an exclusive right to use the capacity of the aircraft on that flight not being a person who, except for the purpose of delivering the whole of that cargo to one or more purchasers thereof from the consignor, has contracted with other persons to carry that cargo or to cause it to be carried; or
- (d) solely for the carriage of passengers with or without their baggage in a case where none of the passengers is carried on such terms as may be prescribed as being carried at a separate fare;

and the Central Government may, by notification in the Official Gazette, exempt from the requirements of clause (b) any other particular flight or series of flights.

- (3) This section shall apply to-
- (a) any flight in any part of the world by any aircraft registered in India; and
- (b) any flight beginning or ending in Inqua by any aircraft registered in such other country or territory, if any, as may be prescribed
- 4. (1) Any application to the Board for the grant of an air service Air Service Licences.
 - (a) contain particulars of any air transport service proposed to be provided under the licence, including the places between which, and (where appropriate) the frequency with which, the service is to be provided;
 - (b) specify the nature of any other purpose for which the applicant desires that aircraft operated by him may be used under the licence for reward or in connection with a trade or business;

and subject to the provisions of this section and of any relevant regulations under section 7, the Board may, at their discretion, after consultation with such persons, if any, as may be prescribed, either reject the application or grant the applicant an air service licence for all or any of the following purposes—

(i) the provision of any air transport service proposed in the application which may be so specified;

- (ii) any other purpose so proposed which may be so specified, subject in either case to such conditions, if any, of the prescribed descriptions as may be so specified.
- (2) In exercise of their functions under this section the Board shall consider in particular—
 - (a) whether they are satisfied that having regard in particular to his experience and financial resources and, subject to sub-section (4); to his ability to provide satisfactory equipment, organisation and staffing arrangements, and having regard also to any contravention in respect of aircraft operated by him, the applicant is competent and a fit and proper person, to operate aircraft for the purpose of which he seeks an air service licence;
 - (b) the provision made or proposed to be made against any liability in respect of loss or damage to persons or property which may be incurred in connection with aircraft operated by the applicant;
 - (c) any unfair advantage of the applicant over other operators by reason of the terms and conditions of employment of his servants;
 - (d) the existing or potential need or demand for any air transport service proposed;
 - (e) in the case of any air transport service proposed the adequacy of any similar service authorised by any air service licence already granted and the tariff, if any, in respect of that similar service;
 - (f) the extent to which any transport service proposed would be likely to result in wasteful duplication of, or in material diversion of traffic from any air transport service licence already granted;
 - (g) any capital or other expenditure reasonably incurred or any financial, commitment or commercial agreement reasonably entered into in connection with the operation of aircraft on air transport services by any person (including the applicant) who is the holder of any air service licence already granted;
 - (h) any objections or representations made in accordance with any relevant regulations under section 7.
- (3) The Central Government and the Board shall, from time to time, consider together the relations with other countries or territories affecting the exercise of the Board's functions; and if in the case of any application for an air service licence the Central Government so direct, in writing, on the grounds that any air transport service proposed in the application would in their opinion involve the negotiations with the Government of some other country or territory of right which it would be inexpedient for the time being to seek the Board shall forthwith reject that application so far as it relates to that service.
- (4) For the purpose of clause (a) of sub-section (2) the Board shall not consider the matters in respect of which an air operator's certificate is required, that is to say, the competence of the applicant to secure that aircraft operated by him will be operated safely.

- (5) Every air service licence authorising air transport service shall melude a provision with respect to the tariff to be charged in respect of that service being—
 - (a) in the case of a service between terminal points one of which is in India and the other of which is not in India, a provision setting out that tariff;
 - (b) in any other case, either provision setting out that tariff or a provision specifying the manner in which the tariff is to be determined:

Provided that the licences shall be of no effect until the said provision has been confirmed by the Central Government either without modification or with such modifications as it may think fit after consultation with such holders of air service licences and other persons as it may consider appropriate:

Provided further that in such cases or classes of cases as may be prescribed, this sub-section shall have effect subject to such exceptions or modifications as may be prescribed in relation to the case or class of cases in question.

(6) The Central Government may, by notification in the Official Gazette, authorise the grant of an air service licence to any person specified in the order being a person who provided air transport services betwee the date of coming into force of sub-section (2) of section 3 in respect of any air transport so specified in relation to that service and without prejudice to their powers under section 5 the Board shall grant that incence forthwith without any application being made thereof:

Provided that the Central Government shall not make any order under this sub-section after the expiration of the period of three months beginning with the said date.

- (7) Except with the consent of the Central Government the Board shall not grant an air service licence to any person who is not either—
 - (a) a citizen of India or Nepal or such treaty areas giving equal rights of Indian citizenship; or
 - (b) a body incorporated in India or Nepal or Sikkim or Bhutan, being a body which in the opinion of the Board substantially controlled by persons each of whom is either a citizen of India or a citizen of the said State or an Indian protected person.
- (8) If, while an air service licence is in force and not later than the prescribed time before the expiry of the term for which it was granted the holder thereof applies to the Board under section 5, unless the application is withdrawn, the first mentioned licence shall not cease to be in force by reason of the expiry of the said term until the Board have given their determination on the application or, if the application is refused or if any new licence granted differs in its terms from the first mentioned licence, until—
 - (a) the expiration of the period prescribed under section 7 for appealing against the Board's decision;

- (b) if an appeal is duly made within that period the determination or abandonment of the appeal; and
- (c) in the case of a successful appeal against a rejection of the application, the date of the coming into force of the new licence.

Revocation, suspension and variation of licences.

- 5. (1) Subject to any relevant regulations under section 7, an application for the revocation, suspension or variation of an air service licence may be made to the Board at any time by any of the persons prescribed in pursuance of clause (b) of sub-section (1) of that section.
- (2) If in the case of any person who is the holder of an air service licence the Board are at any time no longer satisfied as mentioned in clause (a) of sub-section (2) of section 4, they shall as may appear to them appropriate in the circumstances, revoke, suspend or vary that licence, whether or not any application or representation has been made to the Board for the purpose.
- (3) Without prejudice to the provisions of sub-section (2), if at any time the Board are satisfied, whether or not any application or representation has been made to them for the purpose, that it is right and proper so to do, they may revoke, suspend or vary any air service licence.
- (4) Sub-section (2) to (4) of section 4 shall have effect with the necessary modifications in relation to the Board's function under the sub-sections (2) and (3) as they have effect in relation to their functions under section 4.
- (5) If any air service licence is revoked, suspended or varied by the Board otherwise than on the application of the holder of the licence, the revocation, suspension or variation shall not take effect until the expiration of the period prescribed under section 7 for the making of an appeal against the Board's decision nor, if an appeal is duly made during that period, until the determination or abandonment of the appeal.

Additional functions of Board.

6. (1) It shall be the duty of the Board to consider any representation from any person relating to facilities in connection with air transport services by means of aircraft registered in India, or with respect to the traffic or other charges in respect of any such service of facilities:

Provided that the Board shall not be required by this sub-section to consider any representation if in their opinion—

- (a) the representation is frivolous or vexatious; or
- (b) the matters to which the representation relates have already been sufficiently considered by the Board; or
- (c) the matter to which the representation relates are for the time being regulated by an international agreement to which the Indian Government is a party.
- (2) When the Board have considered any such representation as aforesaid, they shall report to the Central Government their conclusions, and shall make such recommendations to the Minister in connection with those conclusions as they think expedient:

Provided that this sub-section shall not apply to any representation made in connection with an application for the grant of an air service licence or for the purpose of the Board's functions under section 5.

7. (1) Without prejudice to any other power to make regulations con-Regulaferred by this Act, the Central Government shall by regulations make tions. provision-

- (a) for requiring, except in such circumstances, if any, as may be specified in the regualtions, publication of notice of the making of any application for the grant, revocation, suspension or variation of an air service licence and for the making of objections or representations with respect to any such application;
- (b) as to the persons entitled to be heard by the Board at any meeting to consider the grant, revocation, suspension, or variation of any such licence;
- (c) for conferring a right to appeal to the Central Government from any decision of the Board with respect to any air service licence or any application for such a licence upon the holder of or application for the licence and upon such other persons, if any, as may be specified in the regulations and generally as to such appeals including in particular provision as to the time by which any such appeal must be made, the other persons, if any, to be made parties thereto, and the liability of any of the parties in respect of costs or expenses incurred in connection therewith;
- (d) for requiring the payment to the Board in connection with air service licences or applications relating thereto of such fees determined in such manner as the regulations may provide.
- (2) Without prejudice to the provisions of sub-clause (1), Central Government may by regulations make provision-
 - (a) as to the form and manner in which any application, objection or representation shall be made to the Board;
 - (b) with respect to the furnishing by persons making an application, objection or representation to the Board of information or documents relevant thereto;
 - (c) as to the liability of any of the persons heard by virtue of clause (b) of sub-section (1) at any meeting of the Board in respect of costs or expenses incurred in connection with the hearing;
 - (d) with respect to the provision by holders of air service licences or air operator's certificate of statistical or other information with res pect to their operations to which the licence or certificate relates;
 - (e) as to the circumstances, if any, in which an air service licence shall or may be transferred or treated as if granted to a person other than the person to whom it was granted;
 - (f) with respect to surrender or cancellation or variation of air service licences;
 - (g) generally as to the procedure of the Board.

- (h) for the setting up of regional advisory committees for the purpose of advising the Board on matters relating to its functions under this Act with particular regard to the circumstances and requirements of particular areas, and for the payment by the Central Government of travelling or other expenses reasonably incurred by any person as a member of any such committees.
- (3) Any power to make regulations conferred by this Act shall include power to make different provision for different circumstances and to make such incidental or supplementary provision as appear to the Central Government necessary or expedient for giving effect to the purposes of this Act.
- (4) Any power to make regulations conferred on the Central Government by this Act shall be exercisable by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of Parliament.

Enforcement of licensing provisions.

- 8. (1) If an aircraft is used on any flight in contravention of sub-section (2) of section 3, the operator of the aircraft and if any other person, whether by negotiating a contract or otherwise made available facilities for travel or the consignment of goods on that flight knowing or having reasonable cause to suspect that the flight would be in contravention of provisions of sub-section (2) that other person also shall be guilty of an offence and be liable—
 - (a) on summary conviction to a fine exceeding ten thousand rupees or to imprisonment for a term not exceeding three months, or to both,
 - (b) on conviction to a fine of such amount as the court may think fit, or to imprisonment for a term not exceeding two years, or to both.
- (2) For the purpose of securing compliance with the requirements of section 3, the Central Government or anyone acting under its authority may require any person who, in India whether by providing an aircraft or negotiating a contract or otherwise, makes available or offers facilities for travel or the consignment of goods upon any journey by air, and any servant or agent of any such person, and any person who is the holder of an aeroplane licence, to provide the Central Government with all such information or documents in his possession or control reating to the journey or proposed journey as may be specified.

Any person, who wilfully fails to comply with any requirements under this sub-section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding two thousand rupees.

- (3) If the holder of any air service licence or air operator's certificate fails without reasonable cause to comply with any requirements of any regulation with respect to the provision of information made by virtue of clause (d) of sub-section (2) of section 7, he shall in respect of each such failure be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand rupees.
- (4) If any person, in furnishing any information under this Act, furnishes any information which to his knowledge is false in any material

particular or recklessly furnishes any information which is false in any material particular, he shall be guilty of an offence and be liable-

- (a) on summary conviction to a fine not exceeding one thousand rupees, or to imprisonment for a term not exceeding one month or to both;
- (b) on conviction to a fine exceeding ten thousand rupees, or to imprisonment for a term not exceeding two years or to both.
- (5) If any person fails without reasonable cause to comply with any requirements duly made of him under this Act to surrender an air service licence for cancellation or variation, he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding five hundred rupees.
- (6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

In this sub-section, the expression, 'director' in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

- (7) Any offence under this section shall, for the purpose of conferring jurisdiction, be deemed to have been committed at any place where the offender may for the time being be.
- 9. (1) The Central Government shall provide the Board with such ac- Expenses commodation and equipment as appears to it to be necessary or expedient of and for the exercise of their functions and shall also provide from among its officers and servants such number of persons to act as officer or servants of the Board as he may from time to time think fit, and any expenditure incurred by the Board with the approval of the Central Government shall be defrayed by the Central Government.

reports to Board.

(2) The Board shall furnish to the Central Government such accounts and other information relating to the discharge of its functions as the Central Government may require and after the end of the year make a report to the Central Government as to the exercise and performance of their functions under this Act in that year, which shall cover any particular matters on which the Central Government has requested them to report and the Central Government shall lay a copy of each such report before each House of Parliament.

27 of 1953.

- 10. The following provisions of the Air Corporations Act, 1953 are hereby repealed, that is to say-
 - (a) sections 18 and 19 and such sections which relate to the reservation of certain air services to the air India or the Indian Airlines Corporation and their associates.
 - (b) sections 30 to 35.

Repeal of certain provisions of the Air Corporations Act, 1953,

Powers to extend provisions of Act.

- 11. (1) The Central Government may by order direct that any of the provisions of this Act shall extend with such exceptions, modifications and adaptations, if any, as may be specified in the order,—
 - (a) to any of the territories protected or administered areas of the Government of India; and
 - (b) to any such area or territory as may be deemed fit or expedient by the Government of India.
- (2) An order of the Central Government by virtue of clause (a) of sub-section (1) may provide for the payment of sums out of moneys provided by Parliament for any purpose for which sums are required to be so paid in consequence of the exercise of the powers conferred by this section.
 - (3) Any order of Central Government made under this section may be ried or revoked by a subsequent order so made.

SCHEDULE

(Vide section 3)

THE AIR TRANSPORT LICENSING BOARD

- 1. The Board shall consist of not less than six nor more than ten members appointed by the Central Government who shall also appoint two of those members to be Chairman and Deputy Chairman respectively of the Board.
- 2. Subject to the provisions of this Schedule, the Chairman, the Deputy Chairman and each of the other members of the Board shall hold and vacate his office in accordance with the terms of the instrument appointing them.

3. The Central Government-

- (a) shall pay to any member of the Board such remuneration (whether by way of salary or fees) and such allowance as the Central Government may determine; and
- (b) in the case of any member of the Board with respect to whom the Central Government may with the said approval determine, shall make such provisions for the payment of a pension to or in respect of that member as the Central Government may so determine;

and the Central Government shall as soon as possible after the establishment of the Board, lay before each House of Parliament a statement of the remuneration and allowances that are or will be payable under this paragraph to the members of the Board, and if any subsequent determination made by it under this paragraph involves any departure from the term of that statement or if a determination so made provides for the payment of a pension to or in respect of any member of the Board, the Central Government shall, as soon as possible after the determination, lay a statement thereof before each House of Parliament.

- 4. If the Central Government is satisfied that the Chairman of the Board is temporarily unable to discharge the functions of his office owing to illness or any other cause, the Central Government may appoint some other member of the Board to act for the time being in the place of the Chairman or Deputy Chairman, as the case may be.
 - 5. If the Central Government is satisfied that a member of the Board-
 - (a) has without the permission of the Board been absent from meetings of the Board for a continuous period exceeding six months; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) has by reason of illness or any other cause become unable or unfit to act as a member of the Board.

the Central Government may, by giving notice in such manner as it thinks fit, declare that person's office as a member of the Board to have become vacant.

- 6. No person who for the time being has any interest, whether as a shareholder or otherwise in the business of an operator of aircraft or of the holder of an aerodrome licence, shall act as a member of the Board unless he has declared his interest to the Board and to the Central Government and if the Central Government is satisfied that by reason of that interest or of any failure so to declare such an interest it is right and proper so to do, the Central Government may by giving notice in such manner as it thinks fit declare that person's office as a member of the Board to have become vacant.
- 7. The Board may act notwithstanding a vacancy in the membership thereof, and no act of the Board shall be invalidated by reason of any irregularity in the appointment of any member thereof or by reason of any person irregularly acting as a member thereof.

The Air Corporations Act, 1953 (No. 27 of 1953) was passed closely following the Civil Aviation Act, 1949, as passed by Parliament in the U.K.

As a result the Air India and the Indian Airlines Corporation were formed absorbing certain air companies which were then operating in the country.

Certain non-scheduled air operators were, however, left out. Provision was made in the existing Act for scheduled operators who were nationalised to be granted non-scheduled permits to operate as non-scheduled operators, if they desired.

All flying clubs also have non-scheduled permits to operate light aircraft commercially for hire and reward.

In February, 1960, Parliament in the U.K. passed the Civil Aviation (Licensing) Bill to amend certain portions of their Act, and for the provision of both the Acts to be cited together as the Civil Aviation Acts, 1949 and 1960. Their reasons were briefly as follows:—

- 1. Give independent operators a field of operations.
- 2. Create a bigger Aviation Industry in these unsettled times and air age.
- 3. To provide home market for aircraft and parts produced by them.
- 4. Introduce a measure of healthy competition between the Corporations and the independent operators to improve air services and benefit the public as befitting a welfare State.
- 5. Create more avenues of employment for technical personnel and aircrews.
- 6. Create a second line of Air Defence by having ready at hand a well-trained group of technicians and pilots and aircraft, to form a reserve transport command immediately for any emergency.

In India, identical conditions have developed.

Hence this Bill.

NEW DELHI;

S. C. SAMANTA.

The 19th March, 1971.

FINANCIAL MEMORANDUM

Clause 7(2) (h) requires the Central Government to make provision for the setting up of regional advisory committees for the purpose of advising the Board, as also for the payment by the Central Government of travelling or other expenses reasonably incurred by any Member of any such committees.

Clause 9(1) requires the Central Government to provide the Board with accommodation and staff.

The Schedule, which contains provisions with respect to the Board, in paragraph 3, empowers the Central Government to pay to members of the Board such remuneration, allowances and pension as it may determine and to lay a statement in this regard before each House of Parliament.

It is estimated that a non-recurring expenditure of about Rs. 2 lakhs will be involved from the Consolidated Fund of India. An amount of about Rs. 1 lakh will also be required annually to meet the recurring expenditure. But it is expected that the recurring expenditure would be met from the fees payable in respect of licences. Therefore, no additional recurring expenditure will be involved from the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 7 requires the Central Government to make regulations providing for the advertising of applications for licences, the making of objections and representations, the right of appeal to the Central Government against the decisions of the Board and the payment of fees for licences.

Sub-clause (2) of clause 7 empowers the Central Government to make regulations regarding the procedure of the Board and other related matters.

The delegation is of a normal character.

BILL No. 19 of 1971

1 Bill to provide for building up an up-to-date and a comprehensive Library for Parliament

Whereas it is necessary, for building up an up-to-date and a coprehensive Library for the Parliament of India, to make arrangements to secure copies of every book, publication, periodical, etc., including maps, illustrations, photographs printed, lithographed, or photographed, in any language, in any part of the Union of India;

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Parliament Library Act, 1971.

Short titles extent and commencement.

- (2) It extends to the whole of India, except the State of Jammu and commence.

 Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

- 2. In this Act, unless the context otherwise requires.—
- (a) "author" includes the writer, composer, compiler, annotator, commentator, or editor of a book, paper, periodical, or publication or a cartoonist, or illustrator, draftsman, painter, and any other person whose work is included in the form of writing, annotation, compilation, editing, drawing, illustration, cartoon, map, or such like material, in a book or published separately;
- (b) "book" includes any work in writing, paper, periodical, pamphlet, or publication, printed and published or lithographed, whether offered for sale or otherwise; and every part or division of a book, pamphlet, sheet of letterpress, sheet of music, map, plan, drawing, illustration, cartoon, graph, chart, or table, separately published, but shall not include any second or subsequent edition of a book, unless such edition contains additions, annotations, or alterations, either in the letterpress or in the maps, prints, or other engravings, belonging thereto, or is an abridgement of that book;
- (c) "composer" means the composer of a musical work or of musical notation, or dance choreograph;
 - (d) "library" means library attached to the Parliament of India;
- (e) "printer" means the proprietor or manager of a printing press, where the copies of a book are multiplied, and who is registered as the keeper of such a printing press;
- (f) "publisher" means any person, firm, or company, carrying on business as publisher of books, and declared in any book to be publisher thereof.

Explanation.—(a) If in any case there are more than one person contributing to the making of a book in its several parts of writing, commentary, or illustrations, etc., separately, the term "author" shall mean those composing and providing the actual thought and material contained in that book, whether published or otherwise; while those who have supplied the commentary, illustration, or annotation or editing shall be distinguished from the author, by the addition of an appropriate term giving the proper designation and contribution of each such contributor.

- (b) Where there is more than one person jointly concerned in writing or providing the actual thought and material contained in a book, they shall be known as joint authors.
- (c) For the purpose of this section the expression "author", "printer", "publisher" and "composer" includes the heirs, assignees or the legal representatives of a deceased author, printer, publisher or composer, respectively.
- (d) Where in any case the same person acts as author, printer or publisher, or combines in himself more than one of these capacities, his responsibilities under this Act shall be the same as that of all of them jointly and each severally.

3. (1) The publisher etc. of every book printed, lithographed, or photographed, and published in any State in the Union of India, shall, after this Act comes into force, furnish, at his own expense, within one calender month of the date of such printing, lithographing, photographing or publishing, to the Secretary to the House of the People who shall give, or cause to be given, a written receipt for the same, three copies of each such book or work printed, photographed, lithographed and published in any language, in any part of the Union of India for use in the library.

Copies of books to be delivered to Secretary to the House of the People.

(2) The copies so delivered under sub-section (1) to the Secretary to the House of the People shall be complete copies of the entire book, including all maps, charts, graphs, tables, notes, illustrations, sketches, drawings, wood-cuts, or photogravures included therein, printed on and stitched or sewn, and bound and got up in the best paper in the same manner as the best copies of the book published.

Provided that in the case of any book of which only a number of copies have been printed on superior paper and sewn or stitched and bound in a better manner and material, whether for presentation or for sale at a price higher than that charged for the ordinary edition, the copies required to be so furnished under this section shall be of the better or superior edition.

4. Without prejudice to any rights or privileges of the Government of India or the Government of a State, the provisions of this Act shall also be applicable to any work which has been prepared or published by or under the direction or control of any Government department.

Applica-

5. If the publisher fails to comply with the provisions of this Act, he shall be liable on summary conviction to a fine not exceeding rupees one hundred in respect of each book, or each demand by the Secretary to the House of the People, in addition to the price of the copies of the book required to be furnished free of cost under this Act; and the fine shall be paid to the Secretary to the House of the People to be kept in a separate reserve fund to be used for the purposes of this Act.

Fenalty for offences under the Act.

6. Any person affected by an order under section 5 may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

Appeal against the fine.

7. No Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence against this Act.

Court to try offences under the Act.

The most important National Libraries of the world, such as the British Museum, the Congressional Library in the United States, or the Bibliotheque Nationale of France, are built up and kept up-to-date by requiring copies of all books etc., printed and published within the jurisdiction of the countries concerned, to be supplied free of cost to such central institutions, under the authority of some national legislation.

In the United States as well as in Britain the Copyright legislation is utilised to achieve this object.

This Bill accordingly proposes to secure, for the use of the Library of Parliament, one copy at least of every book, or publication printed in India in any Indian or foreign language. The Library of Parliament should contain all available material for every problem that may engage the attention of Parliament. It should in fact be co-extensive with the problems of the entire public and private life in the country in all its aspects and phases.

NEW DELHI; The 19th March, 1971. S. C. SAMANTA

BILL No. 17 OF 1971

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Twenty-second Year or the Republic of India as follows:-

1. (1) This Act may be called the Companies (Amendment) Act, Short title 1971.

and commencement.

- (2) It shall come into force at once.
- 2. After section 43A of the Companies Act, 1956 (hereinafter referred Inserto as the principal Act), the following new section shall be incerted:

"43B. If a company, being a public company, alter its articles in such a manner that it becomes a private company, the Company so altered shall cease to be entitled to the privileges and exemptions conferred on private companies by or under this Act, and this Act shall apply to the company so altered as if it were not a private company."

tion of new section Amendment of section 224.

- 3. In sub-section (1) of setcion 224 of the principal Act—
 - (i) for the words "appoint an auditor or auditors", the words "select an auditor or auditors" shall be substituted; and

- (ii) for the word "appointment", the word "selection" shall be substituted:
- (iii) for the word "appointed", the word "selected" shall be substituted:
- (iv) the words "and shall send the names of auditor or auditors so selected for appointment to the Central Government for approval" shall be added at the end.

Amendment of section 237. **4.** In clause (a) of section 237 of the principal Act, after the words "to report thereon", the words "within three months" shall be inserted.

Amendment of section 247. 5. In sub-section (1) of section 247 of the principal Act, after the words "and report", the words "within six months" shall be inserted.

Amendment of section 250. 6. In section 250 of the principal Act, sub-section (6) and (7) shall be omitted.

Insertion of new section 250AA.

- 7. After section 250A of the principal Act, the following new section shall be inserted, namely:—
 - "250AA. Prosecution: If from any report made under sections 247, 248 and 249 above, it appears to the Central Government that any person other than a shareholder has been financially interested in the success or failure of the company or has been controlling or materially influencing the company or any person or persons are found having an interest in company or in body corporate or firm acting as Managing Agent, or body corporate, firm or individual is found as associate of the Managing Agent, Secretaries and treasurers of a company the Central Government may after taking such legal advice as it thinks fit prosecute such person or persons or firm or body corporate for the offence, and it may cease the interest so held."

Amendment of section 275. 8. In section 275 of the principal Act, for the word "twenty", the word "five" shall be substituted.

Under the present Act, private companies are exempted from the restrictions imposed on public companies and are also entitled to certain privileges to which the public companies are not entitled. The result is that an increasing number of public companies are converting themselves into private companies. The purpose of this Bill is to discourage this tendency.

- 2. At present, the auditors are solely appointed by the companies and are therefore under their influence. To ensure proper auditing of the accounts of a company, this Bill seeks to provide that the auditors selected by companies will have to be approved by the Central Government.
- 3. At present no time limit has been laid down for the inspectors to send their reports with the result that the investigation takes too long. The Bill seeks to fix time limits for the purpose.
- 4. There is at present no provision for prosecution of any person allegations against whom have been provided under sections 247, 248 and 249. The Bill seeks to provide for this.
- 5. Under the present Act, a Director or Managing Agent can become Director of twenty and Managing Agent of ten companies respectively, at a time. The purpose of this amendment is to reduce the number.

S. C. SAMANTA.

NEW DELM; The 19th March, 1971.

BILL No. 18 or 1971

A Bill further to amend the Gift-tax Act, 1958

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:---

1. (/) This Act may be called the Gift-tax (Amendment) Act, 1971.

(2) It shall come into force at one.

Short title and commencement.

18 of 1958

2. In section 22 of the Gift-tax Act, 1958 (hereinafter referred to as the principal Act), in sub-section (2), the following words shall be omitted, namely:-

Amendment of section 22.

"but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period."

3. In section 23 of the principal Act, sub-sections (3), (6), (7) and Amend-(8) shall be omitted.

ment of section 23

- 4. In section 25 of the principal Act, in sub-section (3), for the figures, brackets and words "(3) and (5) to (10)" the figures, brackets and the words "(5), (9) and (10)" shall be substituted.
 - Amendment of section 25.
 - 5. In section 26 of the principal Act, sub-section (2) shall be omitted. Amend-

ment of section 26.

6. In section 35 of the principal Act, in sub-section (1), after the words "be punishable with", the words "imprisonment for a term which may extend to three months or with" shall be inserted.

Amendment of section 35.

Under the provisions of the present Act the assessee can appeal against the orders of Gift-tax Officers even after the date of expiry of appeal. He can also apply for reference to arbitration the question of disputed value of taxable gifts. This results in delaying the dispute regarding the fixation of value of taxable gifts. The purpose of the present Bill is therefore to delete these provisions so as to avoid the delay thus caused.

NEW DELHI:

S. C. SAMANTA.

The 19th March, 1971.

BILL No. 31 of 1971

A Bill to provide for legal assistance in civil suits to citizens without adequate means

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Legal Assistance Act, 1971.
 - (2) It shall come into force-
- (a) in the Union territories within a period of six months from the date on which it receives the assent of the President; and
- (b) in the States on such date as the respective State Governments may, by notification in their official Gazette, appoint.
- 2. Notwithstanding anything contained in any law for the time being in force in the territory of India, every citizen, wishing to initiate civil proceedings or against whom such proceedings have been initiated, shall have the right to free legal assistance from the State subject to the following conditions, namely,—
 - (a) his annual income from all sources does not exceed Rs. 2400; and

Short title and commencement.

Right to legal assistance. (b) his case has been recommended by a Screening Committee of Legal Advisers, to be set up under this Act, as a fit case for free legal assistance.

Setting
up of
Screening
Committees.

3. There shall be set up a series of Screening Committees of Legal Advisers at different levels of administration.

Duties of the Screening Committees.

4. It shall be the duty of the Screening Committees to process applications for free legal assistance in civil suits and recommend them to the court of first instance.

Engagement of the counsel. 5. The counsel, in cases recommended by the Screening Committee, shall be engaged by the court referred to in clause 4 above.

Fixation of fee of the counsel. Payment of fee to the counsel.

- 6. The fee of the counsel shall be fixed by the court referred to in clause 4.
- 7. The fee of the counsel shall be paid by the Central or the State Government as the case may be.

Power to make rules.

- 8. (1) The Central or the State Government, as the case may be, shall make rules for their respective Screening Committees in regard to processing of the applications and making of recommendations for legal assistance.
- (2) These rules may provide for fees to be paid by the Government concerned to the members of the Screening Committees.

Because of the prohibitive costs of litigation these days, it has become well nigh impossible for a common man to seek redressal for the wrongs in a court of law. In a welfare and more civilized State there rests a duty on the State to provide for free justice to the indigent citizens.

This Bill seeks to achieve this purpose.

New Delhi; The 20th March, 1971. KARNI SINGH

FINANCIAL MEMORANDUM

Clauses 3 provides for the setting up of Screening Committees. Clauses 7 and 8(2) provide for the payment of fee by the Central or the State Government, as the case may be, to the counsel and to the members of the Screening Committees respectively. The enforcement of the Act will involve a recurring expenditure of about Rs. 10 lakhs annually from the Consolidated Fund of India. A non-recurring expenditure of about Rs. 50,000 is likely to be involved on this account.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill provides for the framing of rules regarding the transaction of business by the Screening Committees and the payment of fees to the members of these Committees. The delegation of power is of a normal character and wholly within the four corners of the Constitution.

BILL No. 34 of 1971

A Bill to provide for the abolition of capital punishment

Br it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Capital Punishment Act, 1971.

Short title and com-

Defini-

tions.

- (2) It shall come into force on such date as the Central Government mencement. may, by notification in the Official Gazette, appoint.
 - 2. In this Act, unless the context otherwise requires,—
 - (a) "citizen" means a person who is a citizen of India under the Constitution of India; and
 - (b) "court" means High Court including any court subordinate to its authority and the Supreme Court of India.
- 3. Notwithstanding any law for the time being in force, no court shall punish any citizen for any offence with death.

No court to award death penalty.

In many countries, capital punishment has been abolished. The four-fold purpose of punishment are retribution, prevention, reformation and deterrence. There has been much controversy on the relative importance of these four functions of punishment. Reformation of the offender is held to be the paramount aim of punishment which is defeated if a person is punished with death. Moreover, a sentence of death cannot be considered infallible. For these reasons, death penalty needs to be abolished.

Hence this Bill.

New Delhi;
The 20th March. 1971.

N. K. SANGHI

Bul No. 32 of 1971

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1971.

Short title.

2. In article 368 of the Constitution,-

Amendment of article 368.

- (a) the following clause should be inserted, namely:—
- "(1) Any provision of the Constitution may be amended in accordance with the procedure hereafter provided in this article.";
- (b) the existing article shall be numbered as clause (2); and
- (c) in clause (2), as so numbered, for the words "An amendment", the words "An amendment of any such provision" shall be substituted.

Doubt and confusion have arisen as a result of the recent judgement of the Supreme Court in I.C. Golak Nath and others versus the State of Punjab as regards the competence of Parliament to amend the articles incorporating Fundamental Rights. The issue raised is of cardinal importance to the supremacy of Parliament to amend even the Fundamental Rights. Just as Parliament can extend these rights it can, in special circumstances, also modify them. The Bill seeks to assert this and remove any doubt that might have arisen as a result of the said judgement.

MADHU DANDAVATE.

New Delhi;
The 22nd March, 1971.

S. L. SHAKDHER,

Secretary.